

Attorney Docket No.: AM100123
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Bigbie, Rocky B., *et al*

Serial No.: 09/840,485

Group Art Unit: 1645

Filed: April 23, 2001

Examiner: Shahnan-Shah, K.

For: EQUINE PROTOZOAL MYELOENCEPHALITIS VACCINE

Confirmation No.: 5730

September 26, 2003

Customer No.: 25291

REPLY

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action mailed March 26, 2003, Paper No. 13, in which the previously pending restriction requirement was made final; claims 3, 9, and 15-22 were withdrawn from consideration; and, and claims 1-2, 4-8 and 10-14 have been rejected.

REMARKS

Reconsideration of this application and claims 1-2, 4-8 and 10-14 is respectfully requested.

The first part of the Office Action responds to a previously pending restriction requirement, which the Examiner has now made final; and accordingly, the Office Action relates that claims 3, 9 and 15-22 have been withdrawn as being drawn to non-elected inventions. As a result, claims 1-2, 4-8 and 10-14 remain pending.

First Rejection Under 35 USC 112 – Item 4 of the Office Action

In this rejection, all pending claim have been rejected under the first paragraph of 35 USC 112, on the premise that the claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art, whether, at the time the application was filed, the inventors had possession of the claimed invention. More specifically, the Office Action suggests, that “the invention appears to employ novel strains of parasites”, and, it “is not clear if the written description is sufficiently repeatable to avoid the need for a deposit,” and/or, “if the starting materials were readily available to the public at the